

CHAPTER NO. 277

SENATE BILL NO. 1721

By Clabough, Miller

Substituted for: House Bill No. 1417

By McCord, Walker

AN ACT to amend Tennessee Code Annotated, Title 47, Chapter 18 and Title 62, Chapter 13, relative to real estate, vacation lodging services and consumer protection.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 62-13-104(b)(3), is amended by adding the following as a new subdivision (D):

(D)(i) No funds shall be distributed from the escrow/trustee account until the customer's stay is complete, unless such distribution is in accordance with terms disclosed to the renter in writing at the time of making the reservation, or within a reasonable time thereafter not to exceed three (3) days, mailed to the renter pursuant to the United States Postal Service or transmitted to the renter via electronic mail, facsimile, or other tangible form of communication. Commissions earned by the firm and the revenue due owners shall be disbursed at least monthly. Funds held in escrow shall be disbursed in a prompt manner without unreasonable delay.

(ii) A vacation lodging service may be exempt from the requirements of subdivision (b)(3)(C) by submitting with its application for a firm license renewal an irrevocable letter of credit from a state or national bank or state or federal savings and loan association having its principal office in Tennessee; or any state or national bank or state or federal savings and loan association that has its principal office outside this state and that maintains one (1) or more branches in this state which are authorized to accept federally insured deposits. The terms and conditions of any irrevocable letter of credit shall be subject to the approval of the commission. At the discretion of the bank or savings and loan association, the form of such irrevocable letter of credit shall be provided by the bank or savings and loan association and may be based on either the Uniform Commercial Code, Tennessee Code Annotated, Title 47, Chapter 5, or the ICC Uniform Customs and Practice for Documentary Credits (UCP 500). In lieu of the irrevocable letter of credit, the commission is authorized to accept equivalent security. The irrevocable letter of credit or equivalent security shall be in the amount of the vacation lodging service's average advanced monthly deposits or such other lesser amount as is reasonably determined by the commission to protect the renters and owners. The commission may draw upon the irrevocable letter of credit or equivalent security to reimburse renters or owners for funds owed to them by the vacation lodging service. The commission shall offer the vacation lodging service a contested case hearing under the Uniform Administrative Procedures Act before drawing upon the irrevocable letter of credit or equivalent security if the vacation


lodging service continues to maintain the letter of credit or equivalent security during the contested case hearing process. If the vacation lodging service does not continue to maintain the irrevocable letter of credit or equivalent security during the contested case hearing process and the irrevocable letter of credit or equivalent security is subject to expiring during the contested case hearing process, the commission may draw upon the irrevocable letter of credit or equivalent security before conducting the contested case hearing. Where the commission draws upon the irrevocable letter of credit or equivalent security before conducting a contested case hearing, the commission shall offer the vacation lodging service a prompt hearing to be conducted before it distributes the proceeds.

SECTION 2. Tennessee Code Annotated, Section 62-13-104(b)(4), is amended by deleting the language "even-numbered".

SECTION 3. This act shall take effect upon becoming a law, the public welfare requiring it.

PASSED: May 21, 2003


JOHN S. WILDER
SPEAKER OF THE SENATE


JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 4th day of June 2003


PHIL BREDESEN, GOVERNOR